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March 6, 2020

Sent Via FOIAOnline

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460

Re: Freedom of Information Act Request Regarding Philadelphia Energy Solutions Refining and Marketing, LLC

Dear FOIA Officer:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 522, and the Environmental Protection Agency's (EPA's) FOIA regulations, we are writing to request the following information.

1. From September 25, 2019 to present, all measured fenceline benzene monitoring data for the Philadelphia Energy Solutions Refining and Marketing LLC Refinery in Philadelphia, PA (herein Philadelphia Energy Solutions Refinery) submitted to the Administrator.
2. From January 30, 2019 to present, each root cause analysis and corrective action plan submitted to the Administrator by the Philadelphia Energy Solutions Refinery, as required by 40 CFR 63 Subpart CC, §63.658(g) and 40 CFR 63 Subpart CC, §63.658(h).
3. From January 30, 2019 to present, any EPA, city of Philadelphia, or Pennsylvania Department of Environmental Protection inspection report for the Philadelphia Energy Solutions Refinery.
4. From January 30, 2019 to present, any communications to or from the Philadelphia Energy Solutions Refinery or the city of Philadelphia that disclose benzene concentration measurements at the Philadelphia Energy Solutions Refinery or within the city of Philadelphia.

Request for Fee Waiver

The Environmental Integrity Project is a non-profit, tax-exempt public policy organization dedicated to the more effective enforcement of environmental laws and reducing exposure to toxic pollution, and the information delivered in response to this request will not be used for any commercial purpose, business, trade, or profit. Accordingly, EIP requests that EPA waive any fees and costs incurred in responding to this FOIA.

As discussed below, EIP meets the six factors used to evaluate fee waiver requests. 40 C.F.R. § 2.107(l)(1).

Factor 1: The subject of the request. The subject of the requested records concerns “the operations or activities of the government” because it concerns actions conducted by a federal agency, in addition to federal agency communications.

Factor 2: The informative value of the information to be disclosed. The disclosure of the requested records is likely to contribute to an understanding of government operations and activities because it will allow the EIP to provide the public with information on what the government is doing about the high levels of benzene found at the Philadelphia Energy Solutions facility.

Factor 3: The contribution to an understanding of the subject by the public is likely to result from disclosure. EIP frequently uses information it obtains through FOIA requests to analyze and simplify public information on environmental issues through the issuance of reports that are covered by media sources. EIP also works closely with communities to disseminate helpful information it learns through the FOIA process to members of the public. EIP plans to use this information consistent with our past practices to simplify and provide the public access to analysis of the public information.

Factor 4: The significance of the contribution to the public understanding. EIP’s review of these records will contribute significantly to the public understanding of government operations and activities by simplifying, organizing, and clearly presenting data obtained in an easy-to-view and understand format.

Factor 5: The existence and magnitude of a commercial interest. EIP is a non-profit, tax-exempt public policy organization with no commercial interests in the information being requested.

Factor 6: The primary interest in disclosure. Since EIP has no commercial interest in the requested information, the public interest in understanding the current actions being taken concerning benzene levels found at the Philadelphia Energy Solutions facility outweighs any commercial interest.

If EPA believes that evaluating our request for a waiver of fees and costs will delay providing us with the records we are seeking, we ask that you contact us so that we may determine whether to withdraw our request for a waiver to expedite your response.

Claims of Exemption from Disclosure

If you regard any documents as exempt from required disclosure, please exercise your discretion to disclose them nevertheless. In the alternative, after careful review for the purpose of determining whether any of the information is exempt from disclosure, please provide all reasonably non-exempt portions of records and communications.

Should you elect to invoke an exemption, please provide the required full or partial denial letter and sufficient information to appeal the denial. In accordance with the minimum requirements and regulations of your due process, this information should include:

1. Basic factual material, including the originator, date, length, and addresses of the withheld items.
2. Explanations and justifications for denial, including the identification of the exemption applicable to the withheld information or portions of the information found to be subject to exemption, and how each exemption applies to the withheld material.

EIP asks that you respond to this request, in accordance with FOIA and EPA regulations, within twenty working days of the date the Freedom of Information Office receives and logs the request. Please feel free to contact us directly if you would like to discuss a reasonable alternative schedule for your response. If you have any questions or need more information, please feel free to contact Benjamin Kunstman at bkunstman@environmentalintegrity.org or at (202)-263-4458. In the meantime, thank you in advance for responding to our FOIA request.

Sincerely,

Benjamin Kunstman